# **House of Representatives**



General Assembly

File No. 254

February Session, 2018

Substitute House Bill No. 5405

House of Representatives, April 5, 2018

The Committee on Banking reported through REP. LESSER of the 100th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

#### AN ACT CONCERNING CONNECTICUT CREDIT UNIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- Section 1. Section 36a-251a of the general statutes is repealed and
- the following is substituted in lieu thereof (*Effective October 1, 2018*):
- 3 The commissioner shall submit an annual report to the joint
- 4 standing committee of the General Assembly having cognizance of
- 5 matters relating to banks and credit unions no later than January first.
- 6 The report shall summarize the commissioner's actions taken pursuant
- 7 to section 36a-70, 36a-139a, [or] subdivisions (41) and (42) of subsection
- 8 (a) of section 36a-250 or subdivision (23) of section 36a-455a, as
- 9 amended by this act.
- Sec. 2. Subsection (a) of section 36a-448a of the general statutes is
- 11 repealed and the following is substituted in lieu thereof (Effective
- 12 *October 1, 2018*):
- 13 (a) The governing board of a Connecticut credit union shall be

14 charged with and have control over the general management of the 15 operations, funds, committee actions and records of the credit union. 16 Except to the extent the governing board is otherwise authorized to 17 delegate such authority or unless such action would be detrimental to 18 the financial integrity of the Connecticut credit union, the governing 19 board shall: (1) Establish and adopt written policies necessary to 20 implement the powers of the credit union, which policies shall be 21 approved and reviewed [on at least an annual basis] when amended, 22 including policies governing: (A) Lending in accordance with sections 36a-457a, 36a-457b, as amended by this act, and 36a-458a, (B) 23 24 investments in accordance with subsection (a) of section 36a-459a, (C) 25 employment and personnel, (D) funds management, (E) collections, (F) 26 charge-offs, (G) conditions of membership, and expulsion of members 27 in accordance with subsection (b) of section 36a-439a, (H) charitable 28 contributions, and (I) conflicts of interest in accordance with sections 29 36a-454b and 36a-458a; (2) make adequate provision for an allowance 30 for investment losses account in accordance with generally accepted 31 accounting principles and for an allowance for a loan and lease losses 32 account in accordance with generally accepted accounting principles 33 and section 36a-441a; (3) declare dividends in accordance with sections 34 36a-441a and 36a-456c; (4) authorize interest refunds to members; (5) 35 determine the maximum amount of shares that a member may own; 36 (6) establish different classes of share accounts, including special 37 purpose accounts, classified according to different rights and 38 restrictions; (7) appoint and authorize members of senior management 39 to conduct and supervise the business of the Connecticut credit union 40 and to approve all usual expenditures incident to the conduct of the 41 business of the Connecticut credit union; (8) cause to be obtained and 42 maintained in full force and effect at all times the bond required by 43 subsection (e) of section 36a-437a, and subsection (b) of section 36a-44 442a; (9) approve loans in accordance with the bylaws of the 45 Connecticut credit union and cause to be prepared each month and 46 maintained on file in the main office of the Connecticut credit union a list of all delinquent loans; (10) authorize any extraordinary 47 48 expenditures necessary or appropriate for the conduct of the business

49 of the Connecticut credit union; (11) establish a supervisory committee 50 and appoint its members and may establish and appoint members to 51 other committees consistent with its bylaws to carry out the business of 52 the credit union, which committees shall keep complete minutes of all 53 actions taken; (12) fill any vacancies that may arise among the 54 directors, senior management or members of board-appointed 55 committees, in accordance with this section and in the manner 56 provided in the bylaws; and (13) exercise such other authority and 57 perform such other duties as prescribed by sections 36a-435a to 36a-58 472a, inclusive, and the bylaws.

- 59 Sec. 3. Section 36a-440a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):
- (a) A Connecticut credit union shall hold an annual meeting as provided in its bylaws. Special meetings of members shall be held as provided in the bylaws and shall be called by the governing board at the request of a majority of the governing board, at the written request of the supervisory committee, or ten per cent of the members of the credit union or such lesser percentage of such members as provided in the bylaws.
  - (b) Notice of each annual or special meeting shall be given to each member in writing, which may include electronic means, by the secretary at least ten days prior to the annual or special meeting. In the case of a special meeting, the notice shall clearly state the purpose of the meeting and the matters that will be considered.
- 73 (c) (1) Each member in good standing shall have a single vote at all 74 meetings notwithstanding the number of shares or number of accounts 75 that such member holds.
- 76 (2) A member may not vote or hold office if the member is less than 77 eighteen years of age.
- 78 (3) Unless provided otherwise in the bylaws, a member entitled to 79 vote may vote in person, by proxy, by electronic means or by mail

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- Sec. 4. Section 36a-455a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):
- A Connecticut credit union may:
  - (1) Transact a general credit union business and exercise by its governing board or duly authorized members of senior management, subject to applicable law, all such incidental powers as are consistent with its purposes. The express powers authorized for a Connecticut credit union under this section do not preclude the existence of additional powers deemed to be incidental to the transaction of a general credit union business pursuant to this subdivision;
- 91 (2) (A) Issue shares to its members and receive payments on shares 92 from its members and from those nonmembers specified in subsection 93 (e) of section 36a-456a, subject to the provisions of sections 36a-290 to 94 36a-297, inclusive, 36a-330 to 36a-338, inclusive, and 36a-456a, (B) 95 receive deposits of members and nonmembers subject to provisions of 96 sections 36a-456a and 36a-456b, (C) reduce the amount of its member 97 and nonmember shares and deposits, (D) expel members and cancel 98 shares in accordance with section 36a-439a, and (E) provide check 99 cashing and wire and electronic transfer services to nonmembers who 100 are within such credit union's field of membership;
- 101 (3) Make and use its best efforts to make secured and unsecured 102 loans and other extensions of credit to its members in accordance with 103 section 36a-265 and sections 36a-457a, 36a-457b and 36a-458a;
- 104 (4) Invest its funds in accordance with section 36a-459a, as amended 105 by this act;
- 106 (5) Declare and pay dividends in accordance with sections 36a-441a 107 and 36a-456c, and pay interest refunds to borrowers;
- 108 (6) Act as a finder or agent for the sale of insurance and fixed and 109 variable rate annuities directly, sell insurance and such annuities

110 indirectly through a Connecticut credit union service organization, or 111 enter into arrangements with third-party marketing organizations for 112 the sale by such third-party marketing organizations of insurance or 113 such annuities on the premises of the Connecticut credit union or to 114 members of the Connecticut credit union, provided: (A) Such 115 insurance and annuities are issued or purchased by or from an 116 insurance company licensed in accordance with section 38a-41; and (B) 117 the Connecticut credit union, Connecticut credit union service 118 organization or third-party marketing organization, and any officer 119 and employee thereof, shall be licensed as required by section 38a-769 120 before engaging in any of the activities authorized by this subdivision. 121 As used in this subdivision, "annuities" and "insurance" have the same 122 meanings as set forth in section 38a-41, except that "insurance" does 123 not include title insurance. The provisions of this subdivision do not 124 authorize a Connecticut credit union or Connecticut credit union 125 service organization to underwrite insurance or annuities;

- (7) Borrow money to an amount not exceeding fifty per cent of the total assets of the Connecticut credit union provided the credit union shall give prior notice to the commissioner in writing of its intention to borrow amounts in excess of thirty-five per cent of its total assets;
- 130 (8) Act as fiscal agent for the federal government, this state or any agency or political subdivision thereof;
- 132 (9) Provide loan processing, loan servicing, member check and 133 money order cashing services, disbursement of share withdrawals and 134 loan proceeds, money orders, internal audits, automated teller 135 machine services, ACH and wire transfer services, prepaid debit cards, 136 payroll cards, digital wallet services, coin and currency services, 137 remote deposit capture services, electronic banking and other similar 138 services to members and other Connecticut credit unions, federal 139 credit unions, federally insured financial institutions and out-of-state 140 credit unions;
  - (10) Provide finder services to its members, including the offering of third party products and services through the sale of advertising space

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on its web site, account statements and receipts, and the sale of

- 144 statistical or consumer financial information to outside vendors in
- accordance with sections 36a-40 to 36a-45, inclusive, in order to
- facilitate the sale of such products to the members of such Connecticut
- 147 credit union;
- 148 (11) With the prior approval of the commissioner, exercise fiduciary
- 149 powers;
- 150 (12) Maintain and rent safe deposit boxes within suitably
- 151 constructed vaults, provided the Connecticut credit union has
- adequate insurance coverage for losses related to such rental;
- 153 (13) Provide certification services, including notary services,
- 154 signature guaranties, certification of electronic signatures and share
- 155 draft certifications;
- 156 (14) Act as agent (A) in the collection of taxes for any qualified
- 157 treasurer of any taxing district or qualified collector of taxes, or (B) for
- any electric distribution, gas, water or telephone company operating
- 159 within this state in receiving moneys due such company for utility
- 160 services furnished by it;
- 161 (15) Issue and sell securities which (A) are guaranteed by the
- 162 Federal National Mortgage Association or any other agency or
- 163 instrumentality authorized by state or federal law to create a
- secondary market with respect to extensions of credit of the type
- originated by the Connecticut credit union, or (B) subject to the
- approval of the commissioner, relate to extensions of credit originated
- by the Connecticut credit union and are guaranteed or insured by a
- 168 financial guaranty insurance company or comparable private entity;
- 169 (16) Establish a charitable fund, either in the form of a charitable
- 170 trust or a nonprofit corporation to assist in making charitable
- 171 contributions, provided (A) the trust or nonprofit corporation is
- 172 exempt from federal income taxation and may accept charitable
- 173 contributions under Section 501 of the Internal Revenue Code of 1986,

or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (B) the trust or nonprofit corporation's operations are disclosed fully to the commissioner upon request, and (C) the trust department of the credit union or one or more directors or members of senior management of the credit union act as trustees or directors of the fund;

(17) In the discretion of a majority of its governing board, make contributions or gifts to or for the use of any corporation, trust or community chest, fund or foundation created or organized under the laws of the United States or of this state and organized and operated exclusively for charitable, educational or public welfare purposes, or of any hospital which is located in this state and which is exempt from federal income taxes and to which contributions are deductible under Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended;

(18) Subject to the provisions of section 36a-455b, sell, pledge or assign any or all of its outstanding extensions of credit to any other lending institution, credit union service organization or quasigovernmental entity and any government-sponsored enterprise, and act as collecting, remitting and servicing agent in connection with any such extension of credit and charge for its acts as agent. Any such credit union may purchase the minimum amount of capital stock of such entity or enterprise if required by that entity or enterprise to be purchased in connection with the sale, pledge or assignment of extensions of credit to that entity or enterprise and may hold and dispose of such stock, provided that with respect to purchases of stock of a credit union service organization, the Connecticut credit union shall not exceed the limitations of section 36a-459a, as amended by this act. A Connecticut credit union may purchase one or more outstanding extensions of credit from any other lending institution and any federally-recognized Native American tribe, provided there exists a formal written agreement with tribal government to permit the credit union to service and collect on such extensions of credit;

(19) Subject to the provisions of section 36a-455b, sell a participating interest in any or all of its outstanding extensions of credit to and purchase a participating interest in any or all of the outstanding extensions of credit of any financial institution or credit union service organization pursuant to an appropriate written participation and servicing agreement to be signed by all parties involved in such transaction;

- (20) With the approval of the commissioner, join the Federal Home Loan Bank System and borrow funds as provided under federal law;
- (21) Subject to the provisions of section 36a-455b, sell all or part of its assets, other than extensions of credit, to other lending institutions, purchase all or part of the assets, other than extensions of credit, of other lending institutions, and assume all or part of the shares and the liabilities of any other credit union or out-of-state credit union;
- (22) With the prior written approval of the commissioner, engage in closely related activities, unless the commissioner determines that any such activity shall be conducted by a credit union service organization of the Connecticut credit union, utilizing such organizational, structural or other safeguards as the commissioner may require, in order to protect the Connecticut credit union from exposure to loss. As used in this subdivision, "closely related activities" means those activities that are closely related, convenient and necessary to the business of a Connecticut credit union, are reasonably related to the operation of a Connecticut credit union or are financial in nature including, but not limited to, business and professional services, data processing, courier and messenger services, credit-related activities, consumer services, services related to real estate, financial consulting, tax planning and preparation, community development activities, or any activities reasonably related to such activities;
- (23) [With the approval of the commissioner, engage] <u>Engage</u> in any activity that a federal credit union or out-of-state credit union may be authorized to engage in under state or federal law, [. The application for such approval shall be in writing and] <u>provided the Connecticut</u>

credit union file with the commissioner prior written notice of its intention to engage in such activity. Such notice shall include a description of the activity, a description of the financial impact of the activity on the Connecticut credit union, citation of the legal authority to engage in the activity under state or federal law, a description of any limitations or restrictions imposed on such activity under state or federal law, and any other information that the commissioner may require. The Connecticut credit union may engage in any such activity unless the commissioner [shall approve or disapprove] disapproves such activity not later than thirty days after the [application] notice is filed. [is complete.] The commissioner [may impose any limitations or conditions] shall adopt regulations in accordance with chapter 54 to ensure that any such activity is conducted in a safe and sound manner with adequate consumer protections. The provisions of this subdivision do not authorize a Connecticut credit union or a subsidiary of a Connecticut credit union [service organization] to sell title insurance.

- Sec. 5. Subsection (a) of section 36a-457b of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):
  - (a) Subject to the requirements of this section, a Connecticut credit union may make one or more mortgage loans to its members. As used in this section, the term "mortgage loan" means a closed-end loan or line of credit secured wholly or substantially by a lien on or interest in real estate, including a leasehold interest, and which is secured by a [one-to-four family] residence that is the primary, secondary or vacation residence of a member. [or by any other real estate provided the aggregate of the loans made by the credit union to such mortgagor that are secured by such other real estate do not exceed fifty thousand dollars.] As used in this section and section 36a-458a, the term "real estate" includes land and any structure and other improvement or equipment that is permanently attached to such land or structure. The term "mortgage loan" shall not include a member business loan, as defined in section 36a-458a.

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Sec. 6. Subsection (c) of section 36a-459a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

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(c) A Connecticut credit union may invest its funds, which are not committed to loans to members in: (1) Securities, obligations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by the United States or any of its agencies or instrumentalities, or in any trusts established for investing directly or collectively in such instruments; (2) general obligations and revenue obligations of any state or territory of the United States, or any political subdivision thereof, provided such obligations are rated in the three highest rating categories by a rating service of such obligations recognized by the commissioner and no more than ten per cent of total assets may be invested in any one issuer; (3) obligations or other instruments or securities of the Student Loan Marketing Association; (4) federal funds, shares, share certificates or other share deposits of any other Connecticut credit union, federal credit union or out-of-state credit union whose share accounts or deposits are insured by the National Credit Union Administration, or its successor agency; (5) loans not exceeding twenty per cent of the lending credit union's total assets to any other Connecticut credit union, federal credit union or out-of-state credit union; (6) federal funds of or deposit accounts with a Connecticut bank, federal bank or out-of-state bank the accounts of which are insured by the Federal Deposit Insurance Corporation or its successor agency; (7) shares of, deposits with or loans to any federal reserve bank or any central liquidity facility established under state or federal law; (8) shares of, deposits with or loans to any corporate Connecticut credit union, corporate federal credit union or corporate out-of-state credit union; (9) shares of stock or obligations of or loans to a national or state credit union association or credit union corporation of which the credit union is a member, provided such investment does not constitute a controlling interest in such association or corporation or does not in the aggregate exceed one per cent of the total assets of the credit union; (10) real estate and improvements thereon, furniture, fixtures and equipment for the present or future

use, in whole or in part, of the Connecticut credit union, provided such investment may not in the aggregate exceed [five] ten per cent of the total assets of the Connecticut credit union without the written approval of the commissioner; (11) debt mutual funds and equity mutual funds, provided the portfolios of such mutual funds consist solely of investments described in subdivisions (1) to (3), inclusive, of this subsection; (12) fixed or variable rate asset-backed securities, collateralized mortgage obligations and real estate mortgage investment conduits, except stripped mortgage-backed securities, residual interests, mortgage servicing rights, commercial mortgage related securities or small business-related securities; (13) money market funds rated in the three highest rating categories by a rating service of such funds recognized by the commissioner; (14) repurchase agreements and reverse repurchase agreements provided (A) the underlying securities are legal investments for Connecticut credit unions, (B) the Connecticut credit union receives a daily assessment of the market value of the underlying securities, including accrued interest, and maintains an adequate margin that reflects a risk assessment of the underlying securities and the term of the agreement, and (C) the Connecticut credit union has entered into signed contracts with all approved counterparties; and (15) Yankee dollar deposits, Eurodollar deposits, banker's acceptances, deposit notes and bank notes with original weighted average maturities of less than five years and issued by a Connecticut bank, federal bank or out-of-state bank.

| This act shall take effect as follows and shall amend the following sections: |                 |             |
|---|-----------------|-------------|
| Section 1   | October 1, 2018 | 36a-251a    |
| Sec. 2  | October 1, 2018 | 36a-448a(a) |
| Sec. 3  | October 1, 2018 | 36a-440a    |
| Sec. 4  | October 1, 2018 | 36a-455a    |
| Sec. 5  | October 1, 2018 | 36a-457b(a) |
| Sec. 6  | October 1, 2018 | 36a-459a(c) |

**BA** Joint Favorable Subst.

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

State Impact: None

Municipal Impact: None

Explanation

The bill makes conforming changes to statutes concerning credit unions that have no fiscal impact to the state or municipalities.

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State Impact: None

Municipal Impact: None

# OLR Bill Analysis sHB 5405

#### AN ACT CONCERNING CONNECTICUT CREDIT UNIONS.

#### SUMMARY

This bill expands the authority of credit unions by allowing them to do the following:

- 1. engage in any activity that a federal or out-of-state credit union may do, unless the Department of Banking (DOB) commissioner timely disapproves of it;
- 2. make mortgage loans to members secured by secondary or vacation residences, without a loan amount limitation;
- 3. invest its funds in real estate and improvements at a 5% higher amount without needing commissioner approval; and
- 4. provide specific additional services such as wire transfer services, prepaid debit cards, and digital wallet services.

The bill decreases how often a credit union's board must approve and review its written policies, from at least annually to only when the policies are amended.

It allows credit union members to (1) receive electronic notice of a credit union's annual or special meeting and (2) vote electronically unless the credit union's bylaws prevent it.

The bill also expands the subjects of an annual report the commissioner must provide to the Banking Committee to include approvals of credit union requests to engage in the same activities as a federal or out-of-state credit union.

Lastly, it makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2018

#### **EXPANDED CREDIT UNION AUTHORITY**

#### Additional Activities

The bill generally allows credit unions to engage in activities that are available to federal or out-of-state credit unions under state or federal law, without the DOB commissioner's prior approval that current law requires.

Instead, under the bill, credit unions may engage in these activities if they give the commissioner prior written notice. Identical to the application requirements under current law, the notice must (1) describe the activity and its financial impact on the credit union, (2) cite the legal authority to engage in the activity, (3) describe any restrictions on the activity imposed by law, and (4) include any other information the commissioner may require.

Under the bill, the commissioner has 30 days after the credit union's notice is filed to disapprove of the activity.

The bill requires the commissioner to adopt related regulations to address consumer protection related to these activities. Current law authorizes him to impose limitations or conditions on them.

## Mortgage Loans

The bill allows credit unions to make mortgage loans to members secured by secondary or vacation residences, without a limit on the loan amount.

Current law limits credit union mortgage loans by requiring that they be secured by (1) a one-to-four family residence that is the member's primary residence or (2) other real estate if the total loan amount is not greater than \$50,000. Under the bill, these loans may be secured by any residence that is a member's primary, secondary, or vacation residence.

#### Funds Investment

The bill increases, from 5% to 10%, the total asset threshold above which a credit union must obtain DOB commissioner approval for investing in real estate and improvements (e.g., furniture, fixtures, equipment). Current law requires a credit union to have commissioner approval to make this type of investment with credit union funds if the investment amount exceeds 5% of the credit union's total assets.

#### Additional Other Services

The law specifies what services a credit union may provide. The bill allows them to provide these additional services:

- 1. wire transfer and Automated Clearing House (ACH) transfers,
- 2. prepaid debit cards,
- 3. payroll cards,
- 4. digital wallet services,
- 5. coin and currency services,
- 6. remove deposit capture services, and
- 7. electronic banking.

The law already allows credit unions to process and service loans, cash checks and money orders, disburse share withdrawals and loan proceeds, provide money orders, conduct internal audits, provide ATM services, and other similar services. They may do so under current law to other state credit unions, federal credit unions, and out-of-state credit unions. The bill explicitly allows them to provide all of these services to members and federally insured financial institutions (i.e., with federal deposit insurance).

#### CREDIT UNION BOARD POLICIES

A credit union's governing board's powers are set in law and the board is responsible for the credit union's general management (e.g.,

operations, funds, committee actions, and records). Among its responsibilities, a board must establish and adopt written policies to carry out its authority.

Under current law, these written policies must be reviewed and approved at least annually. The bill instead requires this only when they are amended.

The bill also expands the required content of these policies to include lending policies related to a member's secondary or vacation home. This corresponds to the bill's expansion of credit union lending authority, which applies to these properties (see above).

#### COMMISSIONER ANNUAL REPORT

By law, the banking commissioner must annually report to the Banking Committee with a summary of his actions to (1) let state-chartered banks engage in certain activities closely related to banking, (2) let them engage in activities allowed for federally chartered banks, and (3) approve the conversion of an uninsured bank or trust bank to a Connecticut bank that may accept retail deposits. Under the bill, the report must also include his actions to let credit unions engage in the same activities as a federal or out-of-state credit union (see above).

# **COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute Yea 19 Nay 0 (03/20/2018)